

178.5

ASSIGNMENT OF STUDENTS

SAN FRANCISCO UNIFIED SCHOOL DISTRICT

AUGUST 1973

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GOVERNMENT CODE: SECTIONS 10500-10504

# Joint Legislative Audit Committee

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November 20, 1973

Assemblyman Floyd L. Wakefield  
Room 4160, State Capitol  
Sacramento, California 95814

Dear Floyd:

Transmitted herewith is a report on the San Francisco Unified School District prepared in response to your request.

The essence of the report is as follows:

- Since September 1971, the attendance areas for all of the elementary schools of San Francisco Unified School District have been designed to achieve a racial/ethnic balance among the schools as mandated by the federal court.
- Approximately 50 percent of the Grade K-6 students were bused to school in 1972-73 to achieve racial/ethnic balance.
- The district's identified costs for desegregating the elementary schools amount to approximately \$2.5 million annually.
- The district is presently a defendant in federal court in a suit to force desegregation of the district's 15 junior high and six high schools. Trial date is October 1973.

Joint Legislative Audit Committee

Assemblyman Floyd L. Wakefield

November 20, 1973

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- The passage of proposition 21 of the 1972 general election has had no effect on the district's assignment of students in 1972-73 or future plans.

With my warm best wishes,

Sincerely,



VINCENT THOMAS, Chairman  
Joint Legislative Audit Committee

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## INTRODUCTION

We have reviewed the records of San Francisco Unified School District to determine if students are assigned to attend particular schools because of race or ethnic origin.

Since the mid 1960s, the California State Board of Education has urged school district governing boards to move towards the elimination of racial and ethnic segregation in schools. The United States Constitution, as interpreted by both federal and state courts since 1954, requires changes to achieve racial and ethnic balance in the schools.

In 1971, Sections 5002 and 5003 were approved by the Legislature and added to the Education Code, effective March 4, 1972. Section 5002 read in part:

"It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Sections 5002 and 5003 of the Education Code were almost identical to the State Board of Education rules and regulations contained in pre-existing Sections 14020 and 14021, Title 5, of the California Administrative Code.

Section 5003 of the Education Code placed the responsibility for carrying out the intent of the legislation with the State Board of Education. The State Board of Education had not adopted rules and regulations for implementing Sections 5002 and 5003 prior to the passage of Proposition 21.

The Legislative Counsel has provided us with opinion #14570, dated July 5, 1973, stating that:

"A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative."

The full text of the opinion is attached as Appendix A.

In the statewide general election November 1972, the voters approved Proposition 21 which added to the Education Code:

"Sec. 1009.6. No public school student shall because of his race, creed, or color, be assigned to or be required to attend a particular school."

Proposition 21 also repealed Sections 5002 and 5003 of the Education Code, and Sections 14020 and 14021, Title 5, of the California Administrative Code.

The question presently before the courts is whether Education Code Section 1009.6 is constitutional or whether it violates the 14th Amendment of the United States Constitution. In February 1973 a superior court in Sacramento ruled Section 1009.6 to be constitutional. In May 1973 a superior court in San Bernardino ruled Section 1009.6 to be unconstitutional.

SUMMARY

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- SINCE SEPTEMBER 1971 THE ATTENDANCE AREAS FOR ALL OF THE ELEMENTARY SCHOOLS OF SAN FRANCISCO UNIFIED SCHOOL DISTRICT HAVE BEEN DESIGNED TO ACHIEVE A RACIAL/ETHNIC BALANCE AMONG THE SCHOOLS AS MANDATED BY THE FEDERAL COURT. 6
- APPROXIMATELY 50 PERCENT OF THE GRADE K-6 STUDENTS WERE BUDED TO SCHOOL IN 1972-73 TO ACHIEVE RACIAL/ETHNIC BALANCE. 9
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- THE DISTRICT IS PRESENTLY A DEFENDANT IN FEDERAL COURT IN A SUIT TO FORCE DESEGREGATION OF THE DISTRICT'S 15 JUNIOR HIGH AND SIX HIGH SCHOOLS. TRIAL DATE IS OCTOBER 1973. 11
- THE PASSAGE OF PROPOSITION 21 OF THE 1972 GENERAL ELECTION HAS HAD NO EFFECT ON THE DISTRICT'S ASSIGNMENT OF STUDENTS IN 1972-73 OR FUTURE PLANS. 12

## BACKGROUND

In the San Francisco Unified School District, like in many other urban school districts, the other white population has decreased in the last three decades, while the minority population has increased. In addition, the minority populations have concentrated in certain geographic areas of the city. This has created highly mono-ethnic or defacto segregated schools. While 28 percent of the total student population was black, 80 percent of the black children were concentrated in 27 schools in which the black students constituted from 47 percent to 96 percent of the total student bodies. In 21 of the schools, the student bodies were over 71 percent black.

Since 1962, various community groups have confronted the Board of Education concerning defacto segregation in the schools. In response, the Board of Education has appointed various committees including an outside research group to study the problems. A 10-year review of the district's action efforts is attached as Exhibit B.

On June 10, 1968, the Board of Education adopted the following policy statement:

"The Board of Education affirms its responsibility to promote racial and ethnic integration with carefully considered, practical plans that are reasonably feasible and acceptable."

Later, on June 10, 1969, the following resolution was adopted:

"Resolved, that the Board of Education reaffirms the proposition that racial and ethnic integration of the school population and staff is one of the essential conditions of educational excellence in American schools... District administration was given six months to develop specific implementation plans."

As a result, on January 6, 1970, prior to the court order to desegregate the elementary schools, the board approved plans submitted by the administration for creation of two elementary school complexes known as the Richmond and Park South complexes.

The complexes were intended as models for the development of future integrated education complexes.

In September 1970, the Richmond complex was implemented. This complex involved twelve elementary schools in the northwest section of the city with an approximate enrollment of 5,000 students. Plans for the Park South complex, not yet implemented, and much of the criteria for both complexes was utilized to develop the desegregation plan required by federal court order in 1971.

District administration is currently beginning a study of alternatives for reducing the number of children bused and the cost of busing.

DESEGREGATION OF ELEMENTARY SCHOOLS

- SINCE SEPTEMBER 1971, THE ATTENDANCE AREAS FOR ALL OF THE ELEMENTARY SCHOOLS OF SAN FRANCISCO UNIFIED SCHOOL DISTRICT HAVE BEEN DESIGNED TO ACHIEVE A RACIAL/ETHNIC BALANCE AMONG THE SCHOOLS AS MANDATED BY FEDERAL COURT.

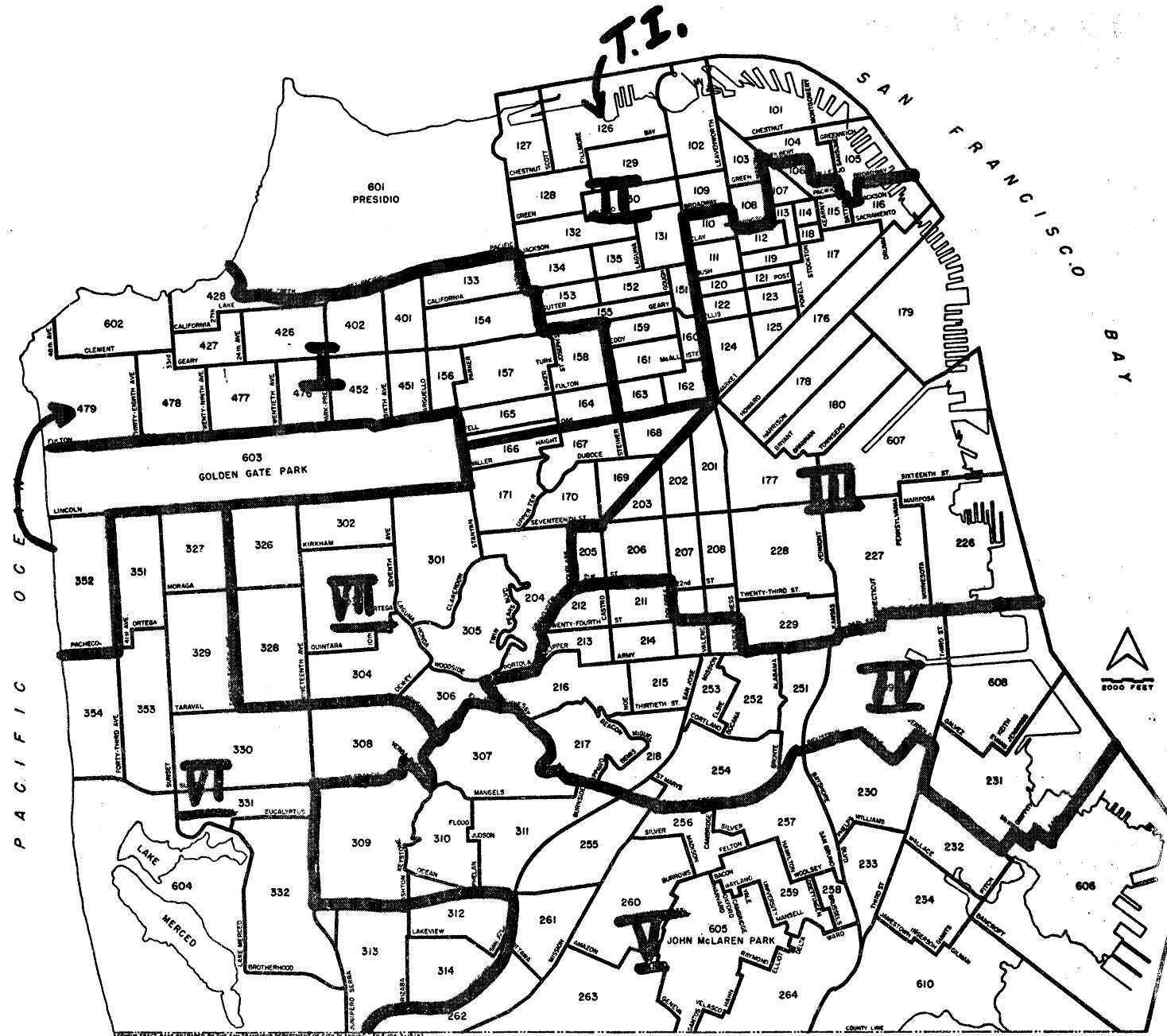
Desegregation of the elementary schools was ordered by the decision of the United States District Court for the northern district of California in the case of David Johnson, et al., vs. San Francisco Unified School District, et al. (1971) 339 Fed. Supp. 1315.

Memorandum of Decision, Judgment and Decree dated July 9, 1971, Judge Stanley A. Weigel presiding, states in part:

"The District is directed and ordered:  
A. To carry out, effective at the start of the next term of the schools on September 8, 1971, desegregation of the student bodies of each and all of the schools as provided for by the Horseshoe Plan ... or by the Freedom Plan..."

"Schools" as defined by the court referred to the elementary schools of the district. The "Horseshoe Plan" for desegregation was developed by the school district administration. The "Freedom Plan" was developed by the plaintiffs in the case. Both plans were developed and presented to the court in April 1971, upon the request of the court. On June 3, 1971, the Board of Education adopted the Horseshoe Plan. Under the Horseshoe Plan, boundaries were outlined for seven racially balanced contiguous zones, as shown on the following map.

## HORSESHOE PLAN



The criteria used for developing the zones were:

- "(1) Racial balance within each zone and school per guidelines prescribed by the California Administrative Code;
- (2) Application of these State guidelines to the four major ethnic/racial groups: Asian (Oriental), Black (Negro), Spanish Surname (Spanish-Speaking), and "Other White";
- (3) Use of contiguous zones;
- (4) Assignment of children living on the same block to the same Primary or Intermediate schools;
- (5) Maintaining, insofar as possible, the existing integrated complexes - (Richmond and Park South).
- (6) During elementary school years children living in the same zone shall attend no more than 2 schools;
- (7) During a single year no more than 2 schools shall be assigned to a block;
- (8) Assignment of children with special needs shall be done within the framework of the desegregation effort.

Schools are to be designated Primary (K-3) and Intermediate (4-6) to facilitate classroom desegregation as well as program improvement. Specific school site designations were made to comply with legal restrictions governing the housing of primary children in wooden frame buildings, the appropriateness of plant design and facilities, and building capacities within any given zone."

The results of implementation of the elementary school desegregation plan are shown in the following schedule:

Number of Schools In/Out of Racial  
And/Or Ethnic Balance 1971-1973

	<u>In Balance</u>	<u>Out of Balance</u>	<u>Total</u>
September 1970	18	80	98
September 1971	61	37	98
April 1972	51	47	98
September 1972	65	32	97
Projected September 1973	76	18	94

BUSING OF STUDENTS

- APPROXIMATELY 50 PERCENT OF THE GRADE K-6 STUDENTS WERE BUSED TO SCHOOL IN 1972-73 TO ACHIEVE RACIAL/ETHNIC BALANCE.

District enrollment of elementary students in December 1972 was approximately 35,240. Of that number, 19,133 students were bused.

A January 1971 district report indicates that only 2,657 students were bused. Prior to the court decision, students were bused to achieve better space utilization and to meet the educational needs of the students.

The district entered into a contract for transportation of students within the Richmond complex by chartered school buses in May 1970. In July 1971, when it was apparent the district transportation need would be greatly expanded, the contract was modified to provide a significantly higher renumeration to the contractor than was provided for in the original bids. The prudence of the district decisions and the legality of the contract has been challenged by the 1973 San Francisco County Grand Jury. The chartered bus company is now controlled by a Philadelphia-based conglomerate recently indicted on anti-trust charges by a federal grand jury. The San Francisco grand jury has recommended that the district replace the present contractor by September 1973 by making arrangements with the San Francisco Municipal Railway, A.C.C. Transit or Golden Gate Transit.

The contractor M & M Charter Lines was purchased by Educational and Recreational Services, Inc. (ERS) on January 31, 1969. ARA Services, Inc. of Philadelphia acquired control of ERS in the fall of 1972.

### COSTS OF DESEGREGATION

- THE DISTRICT'S IDENTIFIED COSTS FOR DESEGREGATING THE ELEMENTARY SCHOOLS AMOUNT TO APPROXIMATELY \$2.5 MILLION ANNUALLY.

The district's fiscal officer provided the following cost figures for desegregating the elementary schools. These costs were not audited by the Auditor General.

	Fiscal Year		
	<u>1970-71</u>	<u>1971-72</u>	<u>1972-73 Estimated</u>
<u>Transportation</u>			
Transportation contract	\$162,942*	\$1,527,679	\$1,531,626
Bus Monitors		237,775	37,000
<u>Office of Desegregation/Integration</u>			
Operating Costs	\$ 122,363	\$ 168,145	
Fringe Benefits (estimated)	21,978		23,000
<u>Transportation Office</u>			
Operating Costs	\$ 65,447	\$ 70,550	
<u>Zone Administrators</u>			
Operating Cost	\$ 525,300	\$ 533,000	
<u>School Conversion</u>			
School sites were converted from grade K-6 schools to grade K-3 and 4-6 by district personnel at an estimated cost of	\$ 81,665		
TOTALS	<u>\$244,607</u>	<u>\$2,500,542</u>	<u>\$2,363,321</u>

\*Richmond complex.

PENDING ACTION TO DESEGREGATE SECONDARY SCHOOLS

- THE DISTRICT IS PRESENTLY A DEFENDANT IN FEDERAL COURT IN A SUIT TO FORCE DESEGREGATION OF THE DISTRICT'S 15 JUNIOR HIGH AND SIX HIGH SCHOOLS. TRIAL DATE IS OCTOBER 1973.

Assignments of junior and senior high school students have not been made to racially balance secondary schools. At present, children passing from an integrated sixth grade may be assigned to a segregated secondary school for the seventh grade.

On March 13, 1973, the Board of Education adopted a resolution directing desegregation of all San Francisco public schools by 1974. The pending trial could result in mandated action prior to the 1974-75 school year.

IMPLEMENTATION OF PROPOSITION 21  
OF 1972 GENERAL ELECTION

- THE PASSAGE OF PROPOSITION 21 OF THE 1972 GENERAL ELECTION HAS HAD NO EFFECT ON THE DISTRICT'S ASSIGNMENT OF STUDENTS IN 1972-73 OR FUTURE PLANS.

In view of the federal cases and the court decision directing the district to desegregate its elementary schools, and the question presently before the courts as to whether or not Section 1009.6 of the Education Code added by Proposition 21 is constitutional, the district has taken no action to effect Proposition 21.



Walter J. Quinn  
Chief Deputy Auditor General

September 19, 1973

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GEORGE H. MURPHY

Sacramento, California  
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Honorable Vincent Thomas  
Assembly Chamber

School - Racial and Ethnic  
Imbalances - #14570

Dear Mr. Thomas:

### QUESTION

You have asked if a school district was required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

### OPINION

A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

### ANALYSIS

At the outset, we point out that the Supreme Court of California has held that the governing board of a school district is required to take affirmative steps, insofar as reasonably possible, to alleviate racial segregation in the schools under its jurisdiction, regardless of whether the

segregation is de facto segregation or de jure segregation (Jackson v. Pasadena City School Dist. (1963), 59 Cal. 2d 876, 881-882; see San Francisco Unified School Dist. v. Johnson, 3 Cal. 3d 937, 957-959; Serrano v. Priest (1971), 5 Cal. 3d 584, 604). The question here presented relates only to the provisions of Sections 5002 and 5003 of the Education Code.\*

Sections 5002 and 5003 were added by Chapter 1765 of the Statutes of 1971 and became operative on March 4, 1972. The sections were repealed by an initiative measure approved by the voters on November 6, 1972. The question is whether or not Section 5002 required a school district to undertake any activity during the time between the two dates. We do not think that it did, since Section 5002 merely declared the policy of the Legislature with respect to the prevention and elimination of racial and ethnic imbalances. Section 5002 provided as follows:

"5002. It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Section 5003 provided:

"5003. (a) In carrying out the policy of Section 5002, consideration shall be given to the following factors:

"(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.

"(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.

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\* All references to code sections are to sections of the Education Code unless otherwise noted.

"(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.

"(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.

"(b) The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.

"(c) For purposes of Section 5002 and this section, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage.

"(d) A district shall study and consider plans which would result in alternative pupil distributions which would remedy such an imbalance upon a finding by the Department of Education that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage. A district undertaking such a study may consider among feasibility factors the following:

"(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.

"(2) The factors mentioned in subdivision (a) of this section.

"(3) The high priority established in Section 5002.

"(4) The effect of such alternative plans on the educational programs in that district.

"In considering such alternative plans the district shall analyze the total educational impact of such plans on the pupils of the district. Reports of such a district study and resulting plans of action, with schedules for implementation, shall be submitted to the Department of Education, for its acceptance or rejection, at such time and in such form as the department shall prescribe. The department shall determine the adequacy of alternative district plans and implementation schedules and shall report its findings as to the adequacy of alternative district plans and implementation schedules to the State Board of Education. A summary report of the findings of the department pursuant to this section shall be submitted to the Legislature each year.

"(e) The State Board of Education shall adopt rules and regulations to carry out the intent of Section 5002 and this section."

Since Section 5002 was limited to a declaration of legislative policy, it did not impose a requirement upon school districts to undertake any particular activity to eliminate racial imbalances.

As to Section 5003, such requirements could have been imposed by regulations of the State Board of Education adopted under subdivision (e), but none were ever adopted. While Section 5003 required school districts to submit certain data and study and consider certain plans, it did not require school districts to undertake any activity to eliminate racial or ethnic imbalances in the schools under their jurisdiction.

Very truly yours,

George H. Murphy  
Legislative Counsel

*Robert D. Gronke*  
By  
Robert D. Gronke  
Deputy Legislative Counsel

A 10- YEAR REVIEW OF ACTION EFFORTS BY THE BOARD OF EDUCATION  
AND SUPERINTENDENT TO CORRECT RACIAL IMBALANCE AND TO EQUALIZE  
EDUCATIONAL OPPORTUNITY IN THE SAN FRANCISCO PUBLIC SCHOOLS

<u>Resolution No.</u>	<u>Description</u>	<u>Bd. Mtg. Date</u>
29-18A1	Ad Hoc Committee established	9/18/62
31-8S6	Ad Hoc Committee Trust Fund established	1/8/63
31-8S7	Ad Hoc contracts for services of Robt. A. Stoffer	1/8/63
34-2A1	Acceptance of Report of Ad Hoc Committee (held over)	4/2/63
34-16A1	Ad Hoc Committee Report adopted	4/16/63
56-15A7	Senate Bill #1194 - Moving of pupils from neighborhood schools for racial reasons. Board opposed	6/15/65
58-3A1	Reactivating Ad Hoc Committee	8/3/65
58-3A2	Authorized racial census, school by school	8/3/65
58-17A2	Motion to approved premises in Ad Hoc Committee Report	8/17/65
59-7A1	Adopt Ad Hoc Committee recommendation	9/7/65
512-7A2	Authorizes suggestions for programming; staff, Supt., and Human Relations Office to continue discussions (held)	12/7/65
512-21A1	Sub. motion for 512-7A2. Formulation of working hypothesis, authorizes outside consultants, and ESEA funding for "A Progress Report Correcting Racial Imbalance"	12/21/65
64-19A1	SRI Proposal 1-66-56, Ph I - \$40,000 (ESEA Title 1)	4/19/66
65-3S1	James Stratton travel (study to alleviate de facto segregation) Amended by 65-17S7	5/3/66 & 5/17/66
68-2A3	SRI Proposal 1-66-133, Ph II - \$165,000 (held over) Adopted at 8/18/66 Bd. meeting	8/2/66 & 8/18/66
69-6B1	Transfer of funds - SRI	9/6/66
75-2Q3	Modify agreement with SRI, Ph I & II	5/2/67
- - -	EEQ #1 - Supt presents report - No Board action	12/19/67
81-2A2	Recommending 6 public forums	1/2/68

Compiled 7/7/70

81-2A3	Giving public and teachers opportunity to be heard - Withdrawn	1/2/68
82-27A3	Requesting public reactions. Carried over Resolution adopted at 3/5/68 meeting. Auth. Supt. to consult with various community groups & indiv.	2/27/68 & 3/5/68
86-4A2	Recommends 6/10/68 Bd Meeting for proposed policy stmt.	6/4/68
86-10A3	Educ. Policy Stmt on Integrated Education adopted	6/10/68
86-10A4	Move to enlarge Res. 86-10A3 - tabled	6/10/68
86-26A12	Res. 86-10A4 carried over from previous meeting - tabled	6/26/68
92-11A3	Report of Citizens Advisory Comm. to be rec'd 2/25/69 No discussion by public or vote by Bd members. Report to be referred to various committees for further recommendation. Adopted	2/11/69
92-25A1	EEQ #2 - Citizens Adv. Comm. Task Force recommended for each Complex. Feasibility report to be completed by 4/4/69. Approved	2/25/69
92-25Q19	State Bd of Ed Regulation relative to school district and State responsibility in preventing elementary racial and ethnic imbalances - informational.	2/25/69
94-15B4	Auth. Agreement, USF - ESEA Title I	4/15/69
95-21Q1	Legal responsibility of school district to alleviate racial imbalance - Opinion	5/21/69
96-10A1	EEQ #3 - Approved as amended	6/10/69
01-6A1	EEQ #4 - Schools for Living. Estab. Complex → Adopt	1/6/70
02-24A3	Deny request for reconsideration of Complex Plan	2/24/70
03-3A2	Assign. of schools in Richmond Complex (Ref. to Supt.) (See Res. 03-3A4 following)	3/3/70
03-3A3	Division of question - vote for each Complex separately Accept Park South Complex. Adopted	3/3/70
03-A4	Richmond Complex - Assignments, ref. back to Supt. for 3/9/70 meeting. - Adopted	3/3/70
03-9A1	Richmond Complexes - Assignment of schools. - Adopted	3/9/70
03-30A1	EEQ #5 - Instruct Supt to report back re specific comments within 14 days. Adopted	3/3/70
05-19A4	EEQ #6 - Board Accepts Plan A - Adopted	5/19/70
05-27A1	Board Adopts Plan B (Res. 05-19A4 rescinded)	5/27/70